



223 West Jackson Blvd.
Suite 300
Chicago, IL 60606

October 25, 2019

University of Illinois Board of Trustees
352 Henry Administration Building, MC-350
506 S. Wright St.
Urbana, IL 61801

To the trustees:

Recent reporting by NPR Illinois and ProPublica revealed several cases in which the University of Illinois at Urbana-Champaign allowed employees who were found to have violated its sexual misconduct policy to exit quietly and confidentially, sometimes with pay.

These became public because victims were willing to talk anonymously with reporters at WUIS FM-91.9, whose NPR license is held by the University of Illinois.

The First Amendment of the U.S. Constitution protects such reporting, and the Better Government Association and the Illinois Press Association strongly object to any effort to constrain it. We urge the Board of Trustees to take action to assure that the U of I does not interfere with journalists' right to gather and report the news.

As you know, university officials have notified WUIS that its journalists, as U of I employees, are required to report sexual misconduct claims — including the identity of the complainant — to the Title IX office.

This policy is at odds with the First Amendment, which prohibits government actions that abridge the freedom of the press. *U.S. Const. Amend I*. The Illinois Supreme Court has noted the "common law recognition that the compelled disclosure of a reporter's sources could compromise the news media's First Amendment right to freely gather and disseminate information." Relevant case law holds that forcing a reporter to reveal a source is permitted only when the public interest in doing so is sufficiently compelling. *Special Grand Jury Investigation of Alleged Violation of Juvenile Court Act*, 104 Ill. 2d 419, 424 (1984); see also *Branzburg v. Hayes*, 408 U.S. 665 (1972)

There is simply no compelling public interest in requiring reporters to forward the names and complaints of sexual harassment victims to the very institution that failed to protect them in the first place.

Yet that is precisely what the University of Illinois does by designating journalists at WUIS as “responsible employees” under its Title IX and Sexual Misconduct policy.

University officials maintain that requiring NPR’s journalists to forward claims to the Title IX office within 48 hours “would not violate any constitutional or other legal protections.” We have asked them to explain the legal basis underlying that determination. To date they have not.

To be blunt: NPR’s reporting exposed the university’s failure to take appropriate steps when victims came forward through official channels. Professors who were found to have violated policies were allowed to resign with assurances that the reasons for their departure would remain confidential. This no doubt helped them find jobs elsewhere. Some stayed on the payroll during “administrative leave” or while banned from the classroom.

To sexual assault victims weighing the consequences of coming forward, these accommodations do not inspire confidence that the university will act in their best interests. It’s reasonable for them to doubt that the university can objectively balance concerns for its reputation and that of its accused employees against the need to vigorously investigate sexual harassment complaints and punish violators.

By seeking to intercept future complaints reported to NPR, the university invites further skepticism of its priorities.

It deprives reluctant victims of a trusted confidante and assures that fewer complaints will be investigated. This is counter to the intent of Title IX and, again, in violation of the First Amendment.

The university can resolve both conflicts by excepting journalists from the designation of “responsible employees” under Title IX, just as it does for confidential advisors who provide counseling to sexual harassment victims.

The BGA and the IPA respectfully ask the Board of Trustees to direct this change.

Sincerely,



Sam R Fisher
President & CEO
Illinois Press Association



David Greising
President & CEO
Better Government Association